

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Contempt Petition No. 36 of 2003

Anand Chandra Petitioner

Versus

Subhash Chandra Gupta
Presently posted as Settlement Officer
Consolidation, Udham Singh Nagar
At Kichha Respondent

Mr. P.C. Jhingan, learned counsel for the petitioner.
Mr. Subhash Upadhyaya, learned counsel for the respondent.

Hon'bel P.C. Pant, J.

This is a contempt petition against the opposite party, Sri Subhash Chandra Gupta, Settlement Officer Consolidation, Udham Singh Nagar complaining the willful disobedience of the court's order dated 07.09.2002 passed in writ petition No. 1227 (S/B) of 2002.

2) Heard learned counsel for the parties and perused the affidavit, counter affidavit and rejoinder affidavit along with the annexures annexed thereto. The impugned order of which violation has been complained reads as under:

*“Learned C.S.C. has accepted notice on behalf of
The respondents who prays for and is allowed three
Weeks time to file counter affidavit. List thereafter.
Meanwhile, it is provided that in case work of
driver is being taken from the petitioner, he shall be
Paid salary of the driver in view of the Fundamental
Rule 22-B and shall be permitted to work.”*

From the perusal of the aforesaid order it is clear that the order was a conditional one and the petitioner was to be paid salary of the driver provided work of driver was taken from him.

3) The opposite party in para No. 5 of its counter affidavit categorically stated that no work of driver was taken from the petitioner, rather it is alleged that one Mahmood Ali Khan was holding the post of driver. I've no reason to disbelieve it.

4) In view of the averments made in the affidavit, counter affidavit and rejoinder affidavit, it is difficult to say if the opposite party has committed any willful disobedience of the impugned order dated 07.09.2002 quoted above.

5) In the circumstances, the contempt petition is liable to be dismissed and is accordingly dismissed. The notice is discharged.

(P.C. Pant, J.)

Dt. 14.09.2004
H.Negi